AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3542 OF 2025

Anandibai Dharma Choudhari & Ors. … Petitioners
V/s.
Jaywant Narayan Choudhari, deceased through LRs & Ors. … Respondents

Mr. Ranvir Shekhawat i/by Raj Legal for the petitioners.

Mr. Pradeep H. Patole with Mr. Kartik Garg and Ms. Nishtha Garg for the respondents.

CORAM : AMIT BORKAR, J.

DATED : MARCH 11, 2025

P.C.:

1. The petitioners, invoking the supervisory jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India, have assailed the legality, propriety, and correctness of the order dated 3rd February 2025, passed by the Hon’ble President, Maharashtra Revenue Tribunal, Mumbai. By the impugned order, the learned Tribunal has been pleased to grant interim relief in terms of prayer clauses (a) and (b) of the stay application preferred by the respondents, directing maintenance of status quo in respect of the 7/12 extract in the revenue records pertaining to old Survey No.28/4, Gut No.43/1 of Village Kachore, Taluka Kalyan, District Thane, and restraining the concerned revenue authorities from effecting any further changes, entries, or mutations in the said 7/12 extract until the next date of hearing, which was fixed as 23rd April 2025. The relevant prayer clauses (a) and (b) of the stay application, as granted by the learned Tribunal, read as follows:

> "*a) This Hon'ble Tribunal be pleased to grant a status quo order concerning the 7/12 extract in the revenue records of old Survey No.28/4, Gut No.43/1 of Village Kachore, Taluka Kalyan, District Thane.*
>
> *b) Direct the concerned revenue authorities to refrain from making any further entries, changes, or mutations in the 7/12 extract."*

2. The learned counsel for the petitioners has strenuously contended that the impugned order is vitiated by gross illegality and is patently unsustainable in law, inasmuch as the learned Tribunal has exercised jurisdiction without issuing notice to the petitioners, thereby violating the principles of natural justice. It has been further submitted that the learned Tribunal lacked the power to grant ex parte interim relief in such a manner, especially when a revision arising out of proceedings under Section 32M of the Maharashtra Tenancy and Agricultural Lands Act, 1948 was already pending adjudication. The learned counsel has pointed out that the respondents, having suffered an adverse order in appeal, had belatedly preferred a revision against the said order with an application for condonation of delay of 74 days, which was filed only on 31st January 2025. It is also pertinent to note that the respondents had earlier obtained condonation of an inordinate and unexplained delay of 38 years vide order dated 30th December 2022.

3. The factual matrix of the case reveals that a certificate under Section 32M of the Maharashtra Tenancy and Agricultural Lands Act, 1948 was initially issued in favour of the petitioners on 29th August 1983. The petitioners, being aggrieved, preferred an appeal challenging the said certificate in October 2021, accompanied by an application for condonation of delay. After affording an opportunity of hearing to all concerned parties, the Sub-Divisional Officer, Kalyan, vide order dated 30th December 2022, was pleased to condone the delay in filing the appeal, which order was subsequently amended on 8th May 2023. Thereafter, upon due consideration of the merits, the learned Sub-Divisional Officer, Kalyan, vide order dated 21st August 2023, allowed Appeal No.60 of 2023 preferred by the petitioners, thereby setting aside the certificate issued under Section 32M.

4. Aggrieved by the order dated 21st August 2023, the respondents preferred a revision before the Maharashtra Revenue Tribunal after a delay of 74 days. The records further indicate that, while the said Revision Application No.1 of 2024 was pending adjudication, the respondents, on 3rd February 2025, preferred a separate Revision Application No.40 of 2025, challenging the order of condonation of delay dated 30th December 2022, as subsequently amended on 8th May 2023. In the said revision proceedings, the respondents moved an application seeking a stay, which came to be granted by the learned Tribunal vide the impugned order dated 3rd February 2025. It is in this backdrop that the petitioners have been constrained to invoke the extraordinary jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India, seeking quashment of the impugned order and consequential reliefs.

5. Having regard to the aforesaid facts and circumstances, it is apparent that the impugned order granting ex parte stay, without affording an opportunity of hearing to the petitioners, suffers from a jurisdictional error and is prima facie contrary to the well-settled principles of natural justice. The manner in which the respondents have approached the Tribunal by filing a subsequent revision and obtaining ex parte relief in a proceeding which is intrinsically linked with a pending revision raises serious concerns regarding abuse of process of law. In such a scenario, the jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India is required to be exercised to ensure that the settled legal principles governing grant of interim relief and procedural fairness are not rendered nugatory. Accordingly, the present writ petition deserves to be entertained for consideration on merits.

6. Before delving into the subsequent contentions raised by the parties, it would be appropriate to underscore that the challenge predominantly revolves around the exercise of discretionary powers by the Maharashtra Revenue Tribunal while granting ex parte interim relief. The petitioners' case rests on the argument of grave prejudice resulting from the order passed without affording a hearing to them. The respondents, on the other hand, contend that the intervening circumstances and the substantial delay in filing the appeal by the petitioners justify, in principle, the grant of an interim order to maintain the status quo.

7. Upon perusal of the impugned order, it emerges that the Maharashtra Revenue Tribunal has granted interim relief in terms of prayer clauses (a) and (b) until 23rd April 2025. Instead of awaiting the said date, the petitioners have rushed to this Hon'ble Court by way of the present writ petition, challenging the said order on the ground that Revision Application No.40 of 2025 filed by the respondents was preferred after a considerable lapse of time and, therefore, the Tribunal erred in granting stay without first affording the petitioners an opportunity of hearing. However, it is also pertinent to note that the petitioners themselves had filed an appeal against the certificate under Section 32M after a protracted delay of thirty-seven (37) years, which was ultimately condoned by the Appellate Authority vide order dated 30th August 2022. While the petitioners allege that the Tribunal failed to consider their objections, it cannot be overlooked that the petitioners were beneficiaries of an extraordinary exercise of discretion by the Appellate Authority in condoning such an inordinate delay.

8. The Tribunal, in the present case, appears to have taken note of the underlying rationale that substantial justice should not be obstructed by a purely pedantic approach to procedural timelines, more so when the petitioners themselves have been recipients of a similar lenience earlier.

9. In law, it was open for the respondents to challenge the validity of the order condoning the delay of more than thirty-seven

(37) years in the earlier pending Revision Application No.1 of 2024. Therefore, filing a separate revision on 3rd February 2025, though an additional step, was largely a matter of abundant caution on the part of the respondents to ensure that their grievance against the condonation of delay was unequivocally raised. In effect, the separate revision application did not alter the core dispute but only reiterated the challenge to the condonation of delay. Consequently, while the petitioners seek to highlight the delay in the respondents' second revision as a ground for assailing the interim order, such an argument, in the overall context, loses much of its force, especially when it is permissible to raise the very same ground in the original revision itself.

10. The jurisprudence on condonation of delay places emphasis on substantial justice, and principle that the length of delay is immaterial; what truly matters is the acceptability of the explanation offered. Therefore, while the second revision may appear superfluous, it does not, by itself, vitiate the respondents' right to question the legitimacy of the condonation order.

11. A significant factor that weighed with the Maharashtra Revenue Tribunal in granting interim relief was the nature of the condonation of delay in the petitioners' appeal, which spanned an extraordinary period of thirty-seven (37) years. In the considered view of this Court, the Tribunal's decision to preserve the status quo until the revision petitions—both the original and the subsequent one—could be heard on merits is not perverse or arbitrary. On the contrary, it is in consonance with the principle that a litigant should not be allowed to derive an undue advantage from a heavily delayed appeal without full inquiry into the propriety of such condonation. The Tribunal's interim order, therefore, cannot be said to be an abuse of discretion.

12. Judicial precedents have consistently recognized that the power to grant interim relief in revisionary proceedings is discretionary and must be exercised judiciously. No material has been placed on record to suggest that the Tribunal's exercise of discretion is patently arbitrary. Accordingly, intervention by this Court would not be warranted in the absence of any grave jurisdictional or legal error.

13. In light of the foregoing discussion, this Court finds no compelling ground to interfere with the impugned order passed by the Maharashtra Revenue Tribunal granting interim relief. The writ petition, being devoid of merits, is accordingly dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)